

what should be used in order to examine bridges and figure out what is wrong with them and which ones should be repaired. As I mentioned, because some of the States have been transferring their bridge repairs to highway maintenance programs to use for wildflower plantings or road construction, this bill also ensures that Federal bridge funds can only be transferred when a State no longer has bridges on the national highway system that are eligible for replacement.

Anyone out there, if they heard that bridge money was going to other things, it wouldn't make sense to them, when we have bridges falling in the middle of America.

Finally, this bill authorizes an additional \$1 billion for the reconstruction of structurally deficient bridges that are part of the national highway system.

When you look at what we do here, we first improve the safety of these bridges. We do it by using a risk-based prioritization, a triage of reconstruction of deficient bridges. It has with it an independent review. It has with it a performance plan. It doesn't allow earmarking. It says: Let's look at where the most seriously deficient bridges are and go there first.

Secondly, it strengthens bridge inspection standards and processes. It requires the immediate update of bridge inspection standards. We had a lot of testimony on this as to why it is important because we have new information and reasons we want to update the standards. Certainly, the bridge collapse in Minnesota showed we want increased scrutiny of inspection standards. We are going to await that report. We do know there may have been some problems with the inspection. It was a design defect initially, but there may have been problems with the inspection. That is why we want to upgrade.

Third, we increase the investment for the reconstruction of structurally deficient bridges on the national highway system, \$1 billion. If they are spending \$10 billion a month in Iraq, it boggles my mind why the other side would block us from trying to spend \$1 billion on bridges in America that are sorely in need of repair.

That is our plan. That is what we are trying to do. It is a start. We all know there is a lot more work that needs to be done and that will be done in the Transportation bill that our committee will be considering next year. We know work has to be done with funding with an infrastructure bank, to look at other ways to fund our transportation system. We know we need to do better with the increasing cost of gasoline, with public transportation and other ways of travel. We also know we have a burgeoning energy economy, which is exciting for the rural areas of my State, with wind and solar and geothermal and biomass. As we know from projects across the country, we will need better transportation systems to

transport energy to market. Yet we have failed to improve our transportation system. If we are going to move into the next century's economy, we cannot be stuck in the last century's transportation system.

This bill will at least make sure our most seriously dangerous bridges are repaired and maintained. It is a start. That is why I am asking my colleagues on the other side of the aisle not to block this bill, not to add a bunch of amendments that have not gone through committee because we are in the waning days of the session. We only have the House bill now, because that is the easiest vehicle to use, even though the Senate bill was exactly the same. Then we don't have to have a conference committee. We just want to get this done. I am hopeful this will head us in the right direction toward action. As we learned that August 1 day in Minnesota, we cannot afford to wait. We have to get this done.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SEC OVERSIGHT

Mr. GRASSLEY. Mr. President, 2 years ago I started conducting oversight of the Securities and Exchange Commission. I did it only in response to a whistleblower who came to my office complaining that the Securities and Exchange Commission supervisors were pulling their punches in their investigation of major hedge funds. Nearly a year and a half ago, I came to this floor to introduce an important piece of legislation based on what I learned from my oversight 6 months before. The bill was aimed at closing a loophole in our security laws.

Now, in light of all the discussion going on about the problems of our financial markets and Wall Street and a very unusual weekend session we are having, as people are attempting to work compromises to help on Wall Street in light of all this current instability, it is critical that Senators take another look at this bill I introduced. It is S. 1402, introduced a year and a half ago, not just because it has become clear that we have a lot of financial problems up on Wall Street. S. 1402 is called the Hedge Fund Registration Act. It is pretty simple. It is only two pages long. All it does is clarify that the Securities and Exchange Commission has the authority to require hedge funds to register so the Government knows who they are and what they are doing. In other words, a little transparency that seems to be lacking in our ability to quantify the instruments that are securitized mortgages that are

creating problems. So if there was a little more transparency there, unrelated to the issue I bring before the Senate, transparency makes a difference. We know what is going on. We quantify it.

Given the Securities and Exchange Commission's current attempts to halt the manipulative short selling and other transactions by hedge funds that threaten the stability of our markets, I am disappointed the Senate did not adopt this legislation a long time ago. If it had, the Securities and Exchange Commission might have more of the tools it needs now in these very nervous markets.

One major cause of the current crisis is, as I have said just now, the lack of transparency. Markets need a free flow of information to function properly. Transparency was the focus of our system of securities regulations adopted in the 1930s. Unfortunately, over time, the wizards of Wall Street figured out a million clever ways of avoiding transparency. The result is the confusion and uncertainty fueling the crisis we are trying to solve this weekend on the helping of Wall Street financially and stopping a credit crunch in this country. This bill would have been one important step toward greater transparency on Wall Street, but so far it has been a lonely effort on my part from the standpoint of this bill I introduced a year and a half ago. Perhaps attitudes have changed in the last several months, so I would urge my colleagues to support this legislation and help me assure it becomes law.

Technically speaking, the bill would amend section 203(b)(3) of the Investment Advisers Act of 1940. It would narrow the current exemption from registration for certain investment advisers. This exemption is used by large, private pooled investment vehicles, commonly referred to as "hedge funds." Hedge funds are operated by advisers who manage billions of dollars for groups of wealthy investors in total secrecy. They should at least have to register with the Securities and Exchange Commission, such as other advisers do.

Currently, the exemption applies to any investment adviser who had fewer than 15 clients in the preceding year and who does not hold himself out to the public as an investment adviser. The Hedge Fund Registration Act I introduced narrows this exemption and closes a loophole in the securities laws that these hedge funds use to avoid registering with the Securities and Exchange Commission and operate in secret. Hedge funds affect regular investors. They affect markets as a whole.

My oversight of the SEC has convinced me that the Commission and the self-regulatory organizations need much more information about the activities of hedge funds in order to protect the markets. Organizations that wield hundreds of billions of dollars in market power every day should be registered with the agency Americans rely on to regulate financial markets.

As I explained when I first introduced this bill 1½ years ago, the Securities and Exchange Commission has already attempted to do this by regulation. So bravo, SEC. In other words, they acted, and bravo to them. But Congress needs to act now because of a decision by a Federal appeals court. In 2006, the DC Circuit Court of Appeals overturned an SEC administrative rule that required registration of these same hedge funds. That decision effectively ended all registration of hedge funds with the SEC unless and until Congress takes action—hence, my legislation.

The Hedge Fund Registration Act would respond to the court decisions by narrowing the current registration exemption and bring much-needed transparency to hedge funds. Most people say the devil is in the details. Well, let's go over the details so I am not trying to hide something.

The bill would authorize the Securities and Exchange Commission to require all investment advisers, including hedge fund managers, to register with the SEC. Only those that meet all four of the following criteria would be exempt. No. 1, managed less than \$50 million; No. 2, had fewer than 15 clients; No. 3, did not hold himself out to the public as an investment adviser; and, No. 4, managed the assets of fewer than 15 investors, regardless of whether investment is direct or through a pooled investment vehicle, such as a hedge fund.

The Hedge Fund Registration Act is a first step in ensuring that the SEC simply has clear authority to do what it already tried to do and the courts said it could not do. Congress must act to ensure that our laws are kept up to date as new types of investments appear. Unfortunately, this legislation, introduced more than a year and a half ago, has not had many friends. These funds do not want people to know what they do and have fought hard to keep it that way. Well, I think that is all the more reason to shed some sunlight on them, to see what they are up to so maybe a couple years from now we are not dealing with problems the hedge funds have caused.

I urge my colleagues to cosponsor and support this legislation, as we work to protect all investors, large and small. It does not prohibit anything. It just makes sure these folks are registered and that you know who they are and how many there are. That is something we ought to know. It does need to be emphasized that we ought to know that in this day, when we are dealing with the problems we are here on this Friday night and Saturday and Sunday and Monday to find a solution to, the Wall Street problems this country now faces.

I yield the floor and suggest the absence of a quorum.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Will the Senator withhold his suggestion of the absence of a quorum?

Mr. GRASSLEY. Oh, yes. I am sorry. The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Thank you very much, Mr. President.

#### THE ECONOMY

Mr. BOND. Mr. President, I commend our ranking member on the Finance Committee for the excellent job he has done. He has talked a good bit about what needs to be done for the future to make sure we do not get into another crisis such as this. I share his view, and I believe now this body will have to address, as soon as we come back after the elections, a wide range of articles and bills that have been introduced.

I sent a letter, about 2 weeks ago, to the Secretary of the Treasury, the Chairman of the Fed, and the Chairman of the SEC, with copies to the leaders of the Banking Committee, talking about some of these pieces of legislation.

One of the things the Senator from Iowa mentioned is the need to have more transparency—transparency in hedge funds. Transparency has been lacking. We have seen Wall Street develop many new products, derivatives. There is a new thing called a credit default swap, which I see that New York is regulating as an insurance product. Obviously, that has played a significant role in financial activities and could provide a problem if there is not proper oversight either as an option or as an insurance product. That is something we are going to have to address.

A couple days ago, I introduced legislation which had been recommended by the Secretary of the Treasury for a Mortgage Origination Commission. Essentially, right now, we have too many people who are offering mortgages that are not regulated under the existing systems. Banks and savings and loans, obviously, are regulated at the State level. But we have many people who are offering mortgages by fax and by e-mail. I cannot get good enough spam filters on my computer at home to avoid getting those mortgage offers. But I can tell by looking at them that they are too good to be true.

Many of these people offered subprime mortgages or alternate "A" mortgages, which essentially said: We will give you a mortgage, but we are not going to check your financial statement, we are not going to see if you are bankrupt or have a criminal record or even if you have a job. They issued these mortgages at very attractive rates, with a significant spike after the initial term and penalties for prepayment, and then they went out and the geniuses on Wall Street sliced them and diced them and they took these toxic products and spread the poison throughout our financial system and throughout the world's financial system. That is why we are in a major crisis.

Another major savings and loan went down last night. We have had too many

toxic products out there that have not been regulated. The Mortgage Origination Commission would set up the primary Federal regulators of products such as this to set standards for State regulation.

Having been a Governor, I believe that where a State regulation can handle the protection of its citizens, it ought to do so. I hope my colleagues will consider the Mortgage Origination Commission bill I introduced and act on it because we cannot have unregulated mortgage originators going out and offering "too good to be true" deals to people who may be overly anxious to jump at too good a deal.

This and the emphasis on trying to get people in no downpayment home mortgages have been a significant part of the problem. As I have tried to say, taking a no downpayment mortgage sets you up to see your American dream turn into your American nightmare. Home ownership does not come without headaches. I know about those headaches. We had to have our basement pumped out a few weeks ago. I have had a furnace go down on me. We have to finance it. If you do not have the money to make a downpayment, you probably are not in a position to take on the responsibilities of a mortgage. Beyond that, before people take a mortgage, they need to understand their financial conditions.

When I traveled around the State of Missouri this spring, talking to homeowners, to housing advocates, to local officials who had seen the foreclosures sweeping across their State, they were using some of the money I joined with Senator DODD, the chairman of the Banking Committee, in introducing last year and passing last year to put \$180 million in mortgage foreclosure counseling. They were making progress on helping people restructure their loans. But the most important thing: Every single one of those people said: We need to make sure every homeowner who is thinking about buying a home has appropriate financial counseling. Because if you go into a mortgage without making sure it is a mortgage you can afford, you are asking for terrible trauma, disappointment, possibly bankruptcy, ruining your credit by taking on a home you cannot afford or more of a home than you can afford. So there are a lot of things that need to be done.

I also urge stronger regulation of our government-sponsored enterprises. I also advocated that the Securities and Exchange Commission reinstate the uptick rule, meaning you can only make a short sale if the price is above the last price, preventing a group of hedge funds getting together and driving the price of the stock so low it causes commotion in the financial community and drives that stock down to a point where the company can no longer survive.

These are some of the steps that need to be taken. I trust we will put a high priority, when we return, of making